

Amend Section 22-001 to read:

Post-hearing: Amend Sections 22-001(a)(3)(A), (d)(2)(B) and (C), (f)(2), (l), (l)(1), and (p)(1); renumber Section 22-001(f)(1)(D) to (C) and delete Section 22-001(a)(1)(A) to read:

22-001 DEFINITIONS

22-001

The following definitions shall apply wherever the terms are used throughout Division 22.

~~(a-)~~ (1) (Continued)

(2) (Continued)

(3) Aid - For purposes of this Division “aid” includes all public social services programs subject to a state hearing.

(A) Such public social services programs include, but are not limited to, CalWORKs, the State administered programs for recipients of SSI/SSP (Division 46), Refugee Resettlement Program (RRP), the Cuban/Haitian Entrant Program (CHEP), the Food Stamp Program (FS), the California Medical Assistance Program (Medi-Cal), ~~the Transitional Child Care Program (TCC)~~, Stage One Child Care, California Assistance Program for Immigrants (CAPI), Personal Care Services Program (PCSP), Kinship Guardian Assistance Program (Kin-GAP), AFDC-Foster Care, California Food Assistance Program (CFAP), the Social Services Programs described in Divisions 30 and 31 of the Manual of Policies and Procedures (MPP), Aid for the Adoption of Children Program (AAC), Adoption Assistance Program (AAP), and Multipurpose Senior Services Program (MSSP). (Continued)

(5) Attorney – an active member of the California State Bar.

~~(5)~~ Authorized Representative - An individual or organization that has been authorized by the claimant or designated by the Administrative Law Judge or Department pursuant to Sections 22-085 and 22-101 to act for the claimant in any and all aspects of the state hearing or administrative disqualification hearing.

HANDBOOK BEGINS HERE

(A) An authorized representative may include ~~legal counsel~~ an attorney, a relative, a friend, or other spokesperson. (Continued)

HANDBOOK ENDS HERE

~~(C) The claimant shall not be required to designate an authorized representative and may represent him/herself at all stages of the hearing process. Also see Sections 22-085 and 22-101.~~

~~(b-)~~ (Continued)

~~(c-)~~ (1) (Continued)

(2) Claimant - The person who has requested a state hearing and is or has been ~~either~~ any of the following: (Continued)

(B) (Continued)

1. There is no right to a state hearing concerning the placement or removal of a foster child. For grievance procedures applicable to the placement or removal of a foster child, see Section ~~30-378~~ 31-020.
2. There is no right to a state hearing concerning group home rates established by the state. For ~~hearing~~ administrative review procedures concerning group home rates established by the state, see Section ~~11-407~~ 30 et seq.

(C) (Continued)

(D) The ~~caretaker~~ relative caring for ~~of~~ a child with regard to the child's application for or receipt of aid. (Continued)

~~(G) A Transitional Child Care provider who receives direct payments for child care services on behalf of a Transitional Child Care family.~~

(3) Compliance issue - An allegation by the claimant that the county has failed to abide by a state hearing decision concerning issues clearly resolved in the order where the county did not have to make further determinations regarding the claimant's eligibility or amount of benefits.

~~(34)~~ (Continued)

~~(45)~~ (Continued)

~~(56)~~ (Continued)

~~(6) County Hearing Officer - A person, designated by the County Welfare Director, to conduct preliminary hearings and prepare written decisions. Such person shall be an impartial party who is not in any way connected with the previous actions or decisions in the case being appealed. (Continued)~~

~~(d-)~~ (1) (Continued)

(2) Decision of the Director –The decision issued by the Director which resolves a state hearing case- and is one of the following:

(A) A final decision issued by an ALJ that is not subject to review before issuance;

(B) A proposed decision by an ALJ which has been adopted as final by the Director; or

(C) An alternate decision of the Director that overrules an ALJ's proposed decision and has been adopted as final.

HANDBOOK BEGINS HERE

~~(A) The decision may be in the form of an adopted proposed decision, a final decision or an alternate decision.~~

HANDBOOK ENDS HERE

(3) (Continued)

~~(e-)~~ (Continued)

~~(f-)~~ (1) Filing Date (Continued)

~~(C) If the claimant is provided a preliminary hearing in accordance with Section 22-074, the filing date for purposes of meeting the 90-day processing limitation set forth in Section 22-060, shall be the date of the decision from the preliminary hearing. (Continued)~~

~~(D)~~ (Continued)

(2) Final Decision - The decision prepared and adopted by the Administrative Law Judge resolving a state hearing case and which ~~shall be treated, for all purposes, as the decision of the Director~~ is not subject to review prior to issuance.

~~(g-)~~through ~~(k-)~~ (Continued)

~~(l-)~~ ~~Reserved~~(1) Language-Compliant Notice - A notice of action that meets the applicable requirement in (a) or (b) below:

(a) For notices of action provided by the California Department of Social Services (CDSS) in the claimant's primary language:

A written notice of action that complies with the requirements of Section 21-115.2 for a claimant who chose to receive written communications offered in his/her primary language pursuant to Section 21-116.21. There shall be a rebuttable presumption that a claimant chose to receive written communications offered in the claimant's primary language if the claimant identified a primary language other than English to the county pursuant to Section 21-201.211.

- (b) For CDSS notices of action that CDSS does not provide in the claimant's primary language:

The county must offer and provide interpretive services for the notice of action if either of the following applies:

- (1) The claimant contacts the county about that notice of action prior to the deadline for a timely request for hearing on an adequate notice of action and indicates a need for interpretive services; or
- (2) The claimant previously identified a primary language other than English to the county and contacts the county about that notice of action prior to the deadline for a timely request for hearing on an adequate notice of action.

HANDBOOK BEGINS HERE

Section 21-115.2 provides as follows:

“Forms and other written material required for the provision of aid or services shall be available and offered to the applicant/recipient in the individual's primary language when such forms and other written material are provided by CDSS. When such forms and other written material contain spaces (other than “for agency use only”) in which the CWD is to insert information, this inserted information shall also be in the individual's primary language.”

HANDBOOK ENDS HERE

(m-) through (o-) (Continued)

~~(p-) (1) Preliminary Hearing — A procedure which provides a claimant who has requested a state hearing an opportunity to present his/her case directly to the CWD. The preliminary hearing procedure is available only in counties which have developed a preliminary hearing system under prior written approval by the Chief Administrative Law Judge. (See Section 22-074).~~

- (1) Precedent Decision - A decision or part of a decision that is designated and indexed as such by the Director, pursuant to the California Administrative Procedure Act,

because it contains a significant legal or policy determination of general application that is likely to recur.

(2) (Continued)

HANDBOOK BEGINS HERE

- (A) A proposed decision ~~will not resolve a state hearing case~~ has no effect unless it has been adopted by the Director or adopted by operation of law. (See Section 22-062, Action by the Director.)

HANDBOOK ENDS HERE

(q:) through (z:) (Continued)

Authority Cited: Sections 10553, 10554 and 10604, Welfare and Institutions Code.

Reference: Sections 10051, 10613, 10950, 10963, 11209, 11323.6, and 11323.8, ~~and 11511(a)~~, Welfare and Institutions Code; Sections 6700, ~~and~~ 6701, 11425.10, and 11425.60, Government Code; 45 CFR 205.10; 45 CFR 205.10(a)(4)(i)(B); and 45 CFR 255.4(j)(1) and Part 256.

Amend Section 22-002.1 to read:

22-002 DETERMINATION OF TIME LIMITS

22-002

- .1 If the last ~~date~~ day for the performance of any act required by these regulations is a holiday, then such period shall be extended to the next day which is not a holiday.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Section 22-003.1 to read:

22-003 RIGHT TO A STATE HEARING

22-003

.1 (Continued)

- ~~.13 In the Food Stamp Program the placement of a household on an alternate issuance system and the length of time the household is on this system shall not be subject to the state hearing process. See Section 63-605.326.~~
- ~~.14 There is no right to a state hearing on the part of any Transitional Child Care provider except on the issue of an overpayment which has been assessed against the provider.~~
- ~~.153 Complaints as to discourteous treatment by a county employee shall not be subject to the state hearing process, but shall be remanded to the CWD for resolution. This procedure shall only apply in those situations in which the Administrative Law Judge at the hearing determines that the basis of the claimant's complaint has not resulted in any denial, delay, discontinuance or reduction in aid or services.~~
- .14 There is no right to a state hearing regarding child custody and child welfare service issues while that child is under the jurisdiction of the juvenile court. All issues regarding the child's custody shall be heard by the juvenile court, including but not limited to those issues left to the discretion of the welfare department or probation department by the juvenile court.

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10613, 10950, and 11209, ~~and 11511(a)~~, Welfare and Institutions Code; 45 CFR 205.10; 45 CFR 235.112(c)(2); 45 CFR 255.4(j)(1) and 256.4(b); and Madrid v. McMahon (1986) 183 Cal. App. 3rd 151, 228 Cal. Rptr. 14 In Re Jennifer G. (1990) 221 Cal. App. 3rd 752 and In Re Moriah T. (1994) 23 Cal. App. 4th 1366.

Amend Sections 22-004.211, .212, .22, .41, and .5 to read:

Post-hearing: Amend Sections 22-004.21, .22, and .41 to read:

22-004 REQUEST FOR A STATE HEARING (Continued)

22-004

.2 (Continued)

- .21 A written request for hearing may be made in any form, including, but not limited to, the reverse side of the Notice of Action.

~~.211 Claimants are encouraged to use the reverse side of the Notice of Action (NA) or DFA 377 form series or other CDSS approved forms.~~

~~.212~~ (Continued)

- .22 When a written request for state hearing is received by the CWD, ~~a copy shall be forwarded to the State hearings Division in Sacramento no later than three working days after its receipt~~ a copy of the written request shall be forwarded to the State Hearings Division in Sacramento within three working days after receipt unless the CWD is given authority by the Chief Administrative Law Judge to directly enter the hearing request into the state hearing computer system online. The county shall retain the original hearing request and shall provide it to the Administrative Law Judge at the hearing. (Continued)

.4 (Continued)

- .41 The ~~legal~~ representative of a ~~claimant's~~ decedent's estate is the executor/executrix or administrator/administratrix of the estate. ~~If there is no the decedent's estate is not in to be probated,~~ the representative may also be an relative heir (e.g., parents, spouse, children, siblings, grandparents or grandchildren of the ~~deceased~~ decedent claimant).

- .5 If the prospective claimant dies before filing a request for a state hearing, a request may only be filed ~~by or on behalf of the representative of the claimant's estate~~ by those individuals specified in Section 22-004.41.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553, ~~and~~ 10554, and 10965, Welfare and Institutions Code; and Section 44, Probate Code.

Amend Section 22-009 to read:

Post-hearing: Amend Section 22-009.11 to read:

22-009 TIME LIMIT ON REQUEST FOR A STATE HEARING

22-009

.1 (Continued)

- .11 If the claimant received an adequate and language-compliant notice of the county action, (see Section 22-001a.(1)), the date of the action shall be the date on which the request for hearing shall be filed within 90 days after the notice was mailed or given to the claimant. If adequate notice was required but a notice was not provided, or if the notice is not adequate and/or language-compliant, any hearing request (including an otherwise untimely hearing request) shall be deemed to be a timely hearing request.
- ~~.12 Where a request for a state hearing concerns the current amount of aid the request shall be filed within 90 days, but the period of review shall extend back to the first of the month in which the first day of the 90-day period occurred.~~
- .13~~2~~ In the Food Stamp Program, the time limits for state hearing requests are set forth in Sections 63-802.4 and 63-804.5.
- .2 A recipient shall have the right to request a state hearing to review the current amount of aid. At the claimant's request, such review shall extend back as many as 90 days from the date the request for hearing is filed and shall include review of any benefits issued during the entire first month in the 90-day period. This review shall only apply to facts that occurred during the review period.

HANDBOOK BEGINS HERE

- .21 Example #1: The county issues the claimant adequate and language-compliant notice on January 20, 2005 advising him/her that the Medi-Cal share of cost is increased from \$100 to \$200 effective February 1, 2005. The claimant receives this notice but does not request a hearing until July 6, 2005. Although the claimant's hearing request is filed more than 90 days after the January 20, 2005 notice was issued, the claimant has the right to a state hearing to review the share of cost for the current month (i.e., July 2005) and the review will extend back 90 days to include all of April, May and June 2005. There can be no review of the February or March 2005 share of cost because the hearing request is untimely as to those months. The review will be based only on the relevant facts that occurred during April, May, June, and July, 2005, including the claimant's income and deductions for those months as relevant to the share of cost. The review will not include facts that occurred prior to the review period.

- .22 Example #2: The county issues an adequate and language-compliant notice of action on March 15, 2005. The notice advises the recipient of a first instance sanction in the CalWORKs program effective May 1 for failure to participate in welfare-to-work. A first instance sanction lasts until the recipient complies with welfare-to-work requirements or becomes exempt from participation. The recipient receives the notice of action but does not request a hearing until October 25, 2005.

The recipient's hearing request is untimely under Section 22-009.1, but the recipient is entitled to a hearing on the current amount of aid under Section 22-009.2, limited to the facts that occurred during July, August, September and October, 2005. The ALJ will not review whether the sanction action was correct, nor the recipient's sanction from April through June. The recipient will be entitled to have the CalWORKs grant reviewed for July, August, September and October, as appropriate, and may be added back to the assistance unit (AU) effective in those months if facts establish that the recipient was exempt or welfare-to-work compliant during those months.

HANDBOOK ENDS HERE

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10950 and 10951, Welfare and Institutions Code and Morales v. McMahon (1990) 223 Cal. App. 3d ~~Section~~ 184, 272 Cal. Rptr. 688.

Amend Sections 22-045.1, .132, and .3 to read:

22-045 SETTING THE HEARING

22-045

- .1 The state hearing shall be held in California in the county in which the claimant is living at the time of the hearing unless the parties agree to conduct the hearing at another location. (See Section 22-056 for out-of-state residents.) (Continued)

.13 (Continued)

- .132 The Administrative Law Judge may terminate the telephone hearing or video conference at the request of either party or on his/her own motion and order an in-person hearing when he/she determines that ~~the claimant's~~ a party's right to due process is being prejudiced by the telephone hearing or video conference procedure. (Continued)

- .3 The State Hearings Division shall mail or ~~deliver~~ provide to the claimant and the county a written notice of the time and place of the hearing ~~not less than~~ at least ten days prior to the hearing. (Continued)

.33 If either party has not received notice of the hearing at least ten days prior to the hearing date, such party shall be granted a postponement, if it requests a postponement.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553, 10554, and 10952 Welfare and Institutions Code; ~~and~~ 7 CFR 273.15(b), and 45 CFR 205.10(a)(2).

Amend Sections 22-049.11, .52, .521, .522, .523, .53, .531, .532, .611, and .63 to read:
Post-hearing: Amend Sections 22-049.1, .522, .522(b), .523, and .531 to read:

22-049 THE HEARING - GENERAL RULES AND PROCEDURES

22-049

- .1 Attendance at the hearing is ordinarily limited to the claimant, authorized representative (as defined in Section 22-001(a)-(56)), county representative, legal counsel, authorized interpreter, and witnesses relevant to the issue. Other persons may attend the hearing if the claimant agrees to or requests their presence and the Administrative Law Judge determines that their presence will not be adverse to the hearing.

.11 (Continued)

.111 The claimant shall not be required to designate an authorized representative and may represent him/herself at all stages of the hearing process. Also see Section 22-085 and Section 22-101. (Continued)

.5 (Continued)

- .52 If the claimant contends that he/she is not adequately prepared to discuss the issues because he/she did not receive ~~adequate~~ the notice required by Section 21-115.2 or 22-071.1, this issue shall be resolved by the Administrative Law Judge at the hearing.

.521 If the Administrative Law Judge determines that adequate and language-compliant notice was provided, the claimant shall agree to discuss the substantive ~~issue or~~ issues or the case will be dismissed.

.522 If the Administrative Law Judge determines that adequate and/or language-compliant notice was required but not provided, the case shall be postponed unless the claimant waives the adequate and language-compliant notice requirements, as applicable, for purposes of proceeding with the hearing, and agrees to discuss the substantive ~~issue or~~ issues at the hearing.

(a) A postponement for this reason shall be deemed a postponement for good cause.

(b) When the Administrative Law Judge has determined that adequate and/or language-compliant notice was not provided but the claimant waives those requirements, as applicable, the Administrative Law Judge shall conduct the hearing on the substantive issues and submit a decision on those issues.

.523 If ~~the~~ adequate and/or language-compliant notice was required but not adequate provided and involved a discontinuance, suspension, cancellation, termination or reduction of aid, other than those referred to in Sections 22-

072.1 through .13, aid shall be reinstated retroactively and the provisions of Section 22-072.5 shall apply.

.53 ~~In cases in which~~ If a jurisdictional issue is raised, ~~either by one of the parties or by the Administrative Law Judge, the parties~~ county must be prepared to submit evidence a position statement on both jurisdictional and substantive issues. The parties must be prepared to submit evidence, on both the jurisdictional and substantive issues, except as provided in Sections 22-049.531, 22-049.532 and 22-054.4.

.531 ~~No determination of the timeliness of the hearing request or of any other jurisdictional issue will ordinarily be made at the hearing. The request will be dismissed by a written decision if the Administrative Law Judge determines that jurisdiction does not exist, e.g., request untimely or no subject matter jurisdiction.~~

Prior to the hearing, a party may request in writing to the regional Presiding Administrative Law Judge that a hearing be limited to the jurisdictional issue. A copy of that request shall be sent to the other party. The Presiding Administrative Law Judge shall make a preliminary determination and inform the parties that:

- (a) the hearing shall proceed only on the jurisdictional issue; or
- (b) the hearing shall proceed on both jurisdictional and substantive issues.

.532 If, prior to or at the hearing, both parties agree to discuss only the jurisdictional issue, or the Administrative Law Judge on his/her own motion determines that only the jurisdictional issue will be discussed, the parties need not submit evidence on the substantive issues, and the Administrative Law Judge shall take evidence only on the jurisdictional issue. ~~Within ten days from the date of the hearing,~~ The Administrative Law Judge shall:

- (a) Inform the parties orally at the hearing or in writing within ten days after the hearing that the hearing will not proceed on the substantive issues and a decision will be prepared solely on the jurisdictional issue, or
- (b) Inform the parties orally at the hearing or in writing within ten days after the hearing that an additional hearing will be held on the substantive issues and provide the parties a minimum of ten days in which to prepare on the substantive issues unless the time is waived by both parties. In this case, the Administrative Law Judge's proposed decision will address both the jurisdictional and substantive issues.

.6 (Continued)

.61 (Continued)

.611 If the interpreter has been certified, the qualifications and competency of the interpreter need not be further examined: except that the Administrative Law Judge shall examine the interpreter with regard to any personal or economic interest in the matter and shall disqualify an interpreter with any such interest.
(Continued)

.63 A separate oath or affirmation to translate accurately and maintain confidentiality shall be administered to all interpreters. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 10955, 10958.1 and 10967, Welfare and Institutions Code; and Section 11435.65, Government Code.

Amend Sections 22-050.21 and .44 to read:

22-050 EVIDENCE (Continued)

22-050

.2 Except as provided below, evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs.

.21 ~~The rules of evidence as applicable in~~ The Administrative Law Judge shall not be bound by rules of procedure or evidence applicable in judicial proceedings shall not be applicable in state hearings. (Continued)

.4 (Continued)

.44 With respect to matters under Subsection 22-050.43 above and subdivision (f) of Section 451 and Section 452 of the Evidence Code which are of substantial consequence to the determination of the action, each party shall be given reasonable opportunity, ~~subject to Section 22-053.3,~~ before the decision is submitted, ~~to present information relevant to:~~ to respond to

~~.441 The propriety of the Administrative Law Judge taking official notice of some facts, and~~

~~.442 The tenor of the matter to be noticed.~~

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Section 22-053 to read:

Post-hearing: Amend Sections 22-053.111; .112; .113, and .113(e), (f), and (g); and .122 to read:

22-053 POSTPONEMENTS AND CONTINUANCE FOR
ADDITIONAL EVIDENCE

22-053

- .1 Postponements ~~shall be granted under limited~~ are subject to the following conditions.
(Continued)

.11 Claimant requests.

~~.111 A hearing involving~~ If a hearing request includes an issue regarding the Food Stamp Program, a claimant's first request for a postponement made prior to hearing shall be granted. The hearing shall be postponed upon the initial request of the claimant prior to the hearing for up to no more than 30 days. A claimant in a Food Stamp case may request additional postponements under Section 22-053.112.

~~.111 Any aid pending, if appropriate, shall continue at least until at least the earlier of the next scheduled hearing or the end of the certification period. See Section 63-804.64 in the Food Stamp Program.~~

~~.112 In all other programs, a~~ A hearing may be postponed upon the request of ~~the a~~ claimant ~~only~~ if such request meets the good cause criteria set forth in Section 22-053.1613.

(a) The Department shall have the authority to request verification from the claimant ~~to support the reason why he/she cannot attend the hearing on the scheduled date~~ that there is good cause for a requested postponement.

~~.1613~~ Good cause shall be established applies if the claimant or authorized representative establishes that the hearing should be postponed for reasons that include, but are not limited to, the case should be postponed due to the following:

~~.161(a)~~ A ~~D~~death in the family.

~~.162(b)~~ Personal illness or injury.

~~.163(c)~~ Sudden and unexpected emergencies ~~which~~ that prevent the claimant or the claimant's authorized representative from appearing.

~~.164(d)~~ A conflicting court appearance ~~which~~ that cannot be postponed.

- (e) The claimant contends that he/she is not adequately prepared to discuss the issues because he/she did not receive an adequate and/or language-compliant notice, and the Administrative Law Judge determines that the required notice was not received. (See Section 22-049.52.)
- ~~.165~~ (f) The county, when required, does not make a position statement available to the claimant ~~not less than~~ at least two working days prior to the date of the scheduled hearing, or the county has modified the position statement (as defined in Section 22-073.2523) after providing the statement to the claimant, and the claimant has waived decision deadlines contained in Section 22-060.
- .12 ~~Upon the County requests of the county, a hearing shall be permitted to be postponed:~~
- .121 ~~By~~ The Administrative Law Judge at the hearing shall have the authority to postpone the hearing, at his or her discretion, at the request of the county.
- .122 Any postponement granted ~~under~~ pursuant to Section 22-053.1231 shall be deemed a postponedment with for good cause for aid pending purposes.
- .13 Administrative Law Judge postponements.
- .131 The Chief Administrative Law Judge or his/her designee shall have the authority to postpone a hearing prior to the hearing at his or her discretion.
- .1342 Any postponement granted ~~under~~ pursuant to Section 22-053.131 shall be deemed a postponedment with for good cause.
- .1533 The Administrative Law Judge shall have the authority to postpone a hearing, ~~for any other reason~~ at the hearing, at his/her discretion.
- ~~.151 The Administrative Law Judge shall order that aid pending be continued only if the postponement is necessary to insure a full and fair hearing and the postponement did not result from any act or omission on the part of the claimant.~~
- .14 ~~The Administrative Law Judge shall have the authority to postpone a hearing, at the hearing, and continue any applicable aid pending if:~~ Hearing notice not received.

~~.141 The claimant establishes good cause as specified in Section 22-053.16. A hearing shall be postponed if either party has not received notice of the time and place of the hearing at least ten days prior to the hearing and that party requests a postponement.~~

~~.142 The county has failed to furnish adequate notice within the meaning of Sections 22-001.1a.(1) and 22-049.52, and the claimant requests the postponement. Any postponement granted pursuant to Section 22-053.141 shall be deemed a postponement for good cause.~~

.2 (Continued)

.4 Aid Pending Hearing

.41 If a first postponement of a case in the Food Stamp Program is granted at the claimant's request under Section 22-053.111, any aid pending shall continue until at least the earlier of the next scheduled hearing or the end of the certification period. See Section 63-804.64.

.42 If a postponement is granted under Section 22-053.133, the Administrative Law Judge shall order that aid pending be continued only if the postponement was for good cause.

.43 Except in the Food Stamp Program as provided in Section 22-053.431, if a postponement is granted for good cause, aid pending shall be continued at least until the next scheduled hearing.

.431 If a postponement is granted for good cause on a food stamp issue after the initial postponement, aid pending shall continue until at least the earlier of the next scheduled hearing or the end of the certification period.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 10952, 10952.5, and 10957, Welfare and Institutions Code and 7 CFR 273.15(c) and (k)(2)(i).

Amend Section 22-054.2 to read:

22-054 DISMISSALS (Continued)

22-054

.2 (Continued)

.22 Abandonment

.221 If the claimant, ~~without good cause therefore,~~ fails to appear, by him/herself or by authorized representative, at the scheduled hearing ~~scheduled for such claimant,~~ the request for hearing shall be considered abandoned and a written decision shall be issued dismissing the claim.

.222 ~~If within ten days from the date of the scheduled hearing, the claimant requests that the hearing request be reinstated and establishes good cause for failing to appear at the hearing, the hearing shall be rescheduled. The claimant shall have the right to request that the dismissal decision be set aside and to have a new hearing if good cause is established for not attending the hearing. Such request must be made within 15 days of the date the dismissal decision is received by the claimant.~~

(a) The criteria for good cause shall include, but not be limited to:

(1) The failure of the claimant to receive notice of the time and place of the hearing. The notice of the time and place of the hearing shall be mailed to the claimant's last known address and good cause shall not be established if the claimant failed to notify the county or Department of any change of address while the appeal is was pending.

(2) The criteria set forth in Section 22-053.1613.

~~(b) If the hearing is rescheduled, any applicable aid pending the hearing shall be reinstated as specified in Section 22-072.711.~~

(b) If a new hearing is granted and a decision dismissing the claim is set aside, any applicable aid paid pending shall be reinstated as specified in Section 22-072.611.

~~(c) If the a new hearing is not rescheduled granted and a decision dismissing the claim is not set aside, or the claimant does not request reinstatement within 10 days from the scheduled hearing date, the claimant shall be notified in writing as to the specific reasons for the decision was not set aside and the right to request a rehearing as specified in Section 22-065 appeal such dismissal in Superior Court.~~

(d) (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code and 45 CFR 205.10(a)(5)(8).

Amend Sections 22-059.1 and .11 to read:

22-059 COMMUNICATIONS AFTER HEARING

22-059

- .1 After the hearing record is closed, ~~Communications~~ to the Department concerning a case ~~subsequent to the hearing~~ shall be excluded from the record and shall be disregarded prior to the adoption and release of the decision of the Director except that:
- .11 Oral and written communications ~~after the hearing~~ concerning the status of the decision, or the date of delivery of additional evidence to be submitted under the provisions of Section 22-053.21, or protesting an Administrative Law Judge's determination under Section 22-072.63 with respect to aid pending a hearing or a disqualification request under the provisions of Section 22-055, are not improper; and (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code; and 11430.10(a), Government Code.

Amend Section 22-061.2 to read:

22-061 SUBMISSION OF PROPOSED DECISION/ADOPTION (Continued) 22-061

- .2 If the Administrative Law Judge who heard the case is unavailable to prepare the proposed decision, the Chief Administrative Law Judge or his/her designee shall contact the claimant and the county and notify ~~him/her~~ each party that the case is being assigned to another Administrative Law Judge for preparation of the decision on the record.
(Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code and 45 CFR 205.10(a)(15)(ii).

Amend Sections 22-063.111, .112, and .2 to read:

22-063 NOTICE OF DECISION

22-063

.1 (Continued)

.11 The notice of decision shall contain:

.11~~2~~1 Applicable rehearing rights.

.11~~4~~2 A statement concerning the right to judicial review.

.113 (Continued)

.2 If the Director:

.21 ~~Renders an alternate decision or orders a further hearing,~~ a copy of both the Administrative Law Judge's proposed decision(s) and the Director's alternate decision shall be mailed to the claimant and the county ~~with the final decision.~~

.22 Orders a further hearing, the State Hearings Division shall mail a copy of the voided proposed decision with the notice of the scheduled further hearing. (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553, ~~and~~ 10554, and 10959, Welfare and Institutions Code.

Amend Section 22-064 to read:

Post-Hearing: Amend Section 22-064.1 to read:

22-064 AVAILABILITY OF STATE HEARING RECORDS

22-064

- .1 The ~~verbatim record~~ recording of the ~~testimony and exhibits~~ hearing, or an official report containing the substance of what transpired at the hearing, together with all papers and the request filed in the proceedings, and ~~the Administrative Law Judge's proposed any final, proposed or alternate~~ decision shall constitute the exclusive record ~~for decision~~. Such materials shall be available to the claimant and the county during normal working hours at the State Hearings Division or at a mutually agreed-upon location for three years after the date of ~~the~~ any decision ~~of~~ issued by the Director.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553, ~~and~~ 10554, and 10956, Welfare and Institutions Code.

Amend Sections 22-065.11, .2, .4, .41, .41, .5, .51, and .6 to read:
Post-Hearing: Amend Section 22-065.61 to read:

22-065 REHEARING

22-065

.1 (Continued)

.11 (Continued)

.112~~1~~ The request shall not be required to be in any particular form.

HANDBOOK BEGINS HERE

(a) ~~Such request should specify the reasons for the rehearing request.~~

HANDBOOK ENDS HERE

.114~~2~~ For ~~rehearing~~ requests involving a decision issued by the California Department of Health Services, the request shall be mailed to the California Department of Social Services.

.113 Such request shall specify the reasons for the rehearing request. (Continued)

.2 Upon receipt of a timely rehearing request, the Director shall mail a copy of the request ~~on~~ to the other party to the hearing. (Continued)

.4 If a request for rehearing is granted, the Director may order the Administrative Law Judge to review one, several, or all issues which were presented for review at the original state hearing. ~~†The Director shall may:~~

.41 ~~Order reconsideration of the decision on the basis a rehearing on the record to consider~~ of the evidence in the record and any additional written or documentary evidence which may be submitted by the claimant or the county.

.41~~4~~ Any evidence obtained shall be submitted to the opposing party for rebuttal.

.42 ~~Order an oral rehearing. a new hearing on one or more of the issues presented at the original state hearing.~~

.5 Where the Director's orders ~~is pursuant to the provisions of .41 or .42 above,~~ a rehearing on the record, the claimant and the county shall be informed that either party may request that the rehearing be conducted ~~in the same manner as the original hearing~~ as an oral rehearing.

- .51 Any such requests received ~~prior to the date of reconsideration that is specified in the Director's order~~ within 15 days of the date of the notice advising of the rehearing on the record shall be honored.
- .6 ~~A decision of the Director issued upon a rehearing shall not be subject to further state hearing.~~ The following shall not be subject to a rehearing:
- .61 A rehearing decision, except on an issue that was decided for the first time on the merits in the rehearing decision.
- .62 A hearing request that has been dismissed pursuant to Section 22-054.4.
- .63 A compliance issue as defined in Section 22-001(c)(3).
- .7 (Continued)

Authority Cited: Sections 10553, 10554 and 10960, Welfare and Institutions Code.

Reference: Sections 10553, ~~and~~ 10554, and 10960, Welfare and Institutions Code.

Amend Section 22-069 to read:

22-069 COUNTY WELFARE RESPONSIBILITY

22-069

.1 (Continued)

.12 The county responsibility shall include:

.121 Submission of the original hearing request to the Administrative Law Judge at the hearing.

.122 Investigation Review of the case and assistance to the claimant prior to the hearing; and (Continued)

.1223 (Continued)

.1234 (Continued)

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Section 22-071.12 to read:

22-071 ADEQUATE NOTICE

22-071

- .1 Except as provided in Section 22-071.2, the county shall give the claimant adequate notice as defined in Section 22-001(a)(1) in the following instances: (Continued)
- .12 For CalWORKs and Food Stamp cases, Section 22-071.12(MR) shall become inoperative and Section 22-071.12(QR) shall become operative in a county on the date Quarterly Reporting/Prospective Budgeting (QR/PB) becomes effective in that county, pursuant to the Director's QR/PB Declaration.
- (MR) For CalWORKs and Food Stamp cases, When aid is denied, decreased, suspended, cancelled, discontinued, or terminated.
- (QR) For CalWORKs and Food Stamp cases, When aid is denied, decreased, not changed following a recipient mid-quarter report, cancelled, or discontinued. When aid is not changed due to a voluntary recipient mid-quarter report, the notice shall be sent as soon as administratively possible, but no later than 30 days from the date the voluntary report is made. (Continued)
- .13 For all cases other than CalWORKs and Food Stamp cases, when aid is denied, decreased, suspended, cancelled, discontinued, or terminated.
- .1231 For purposes of Sections 22-071.12 and .13, A a decrease shall include an overpayment adjustment and balancing.
- .134 (Continued)
- .145 (Continued)
- .156 (Continued)
- .167 (Continued)
- .178 (Continued)
- .189 (Continued)
- ~~.19 When the county demands repayment of an overpayment from a Transitional Child Care provider. (Continued)~~

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 10613, 11209, 11265.2, and 11265.3, ~~and~~
~~11511(a)~~, Welfare and Institutions Code; and 45 CFR 255.4(j)(1) and
256.4(b).

Amend Sections 22-072.2 (l), and .5 through .9 to read:
Post-Hearing: Amend Sections 22-072.5 and .522(a)(1) to read:

22-072 TIMELY NOTICE - AID PENDING HEARING (Continued)

22-072

.2 (Continued)

(l) Section 22-072.2(l)(QR) shall become operative in a county on the date QR/PB becomes effective in that county, pursuant to the Director's QR/PB Declaration.

(QR) For CalWORKs and Food Stamp cases, If the county determines there will be no change in a recipient's cash aid as a result of a recipient mid-quarter report.
(Continued)

.5 Except as provided in Sections 22-054.1 and 22-072.7, when the claimant files a request for a state hearing prior to the effective date of the Notice of Action, which is subject to Section 22-072.1, aid shall be continued in the amount that the claimant would have been paid if the proposed action were not to be taken, provided the claimant does not voluntarily and knowingly waive aid. This section shall not apply to CalWORKs (Welfare to Work) supportive services payments (see Section 42-750.7213). In the Food Stamp Program, benefits shall be continued on the basis authorized immediately prior to the notice of adverse action.

HANDBOOK BEGINS HERE

.51 EXAMPLE: If the notice is mailed on April 20th to be effective May 1st, the hearing request shall be filed before May 1.

HANDBOOK ENDS HERE

.52 If the notice proposing action is required to be timely and is not, the hearing request shall be required to be filed before the next date on which the proposed action could become effective based on timely notice.

HANDBOOK BEGINS HERE

.521 EXAMPLE: If the notice is mailed April 21 to be effective May 1, the hearing request must be filed before the next regular benefit issuance date which occurs at least ten days after the April 21 notice.

HANDBOOK ENDS HERE

.522 In the Food Stamp Program if a recipient fails to file a hearing request before the effective date of the proposed action, aid pending is appropriate provided the recipient establishes good cause with the State Hearings Division or the Administrative Law Judge (see Section 63-804.613).

- (a) The criteria for good cause shall be ~~those specified in Section 22-053.16.~~
as follows:

- (1) The claimant contends that he/she did not receive adequate and/or language-compliant notice and the Administrative Law Judge determines that the required notice was not received.
- (2) Any other substantial and compelling reason as determined by the Administrative Law Judge.

~~.6~~ Aid Pending Hearing

- ~~.61 In the Transitional Child Care (TCC) program, benefits shall be paid pending the outcome of a state hearing in the amount requested by the family up to the reimbursement maximum currently approved by the county or actual cost less the family fee, whichever is less, subject to the following conditions:~~

~~.611 Benefits paid pending shall not be allowed beyond the TCC eligibility period.~~

~~.612 The family has filed for or requested a state hearing within ten calendar days of the Notice of Action, or within ten calendar days of the date a child care payment is issued when the family is dissatisfied with the amount of the payment.~~

HANDBOOK BEGINS HERE

- ~~.613 Example: The TCC family was approved for TCC up to a reimbursement maximum of \$275. The TCC family's actual costs less the family fee had been \$250 for the three preceding months. The provider increased the rate to \$300 after deduction of the family fee, but the family still only paid the provider \$250, plus the family fee. The family submits a request for payment in the amount of \$300, after deduction of the family fee. However, the provider signed the request and indicated receipt of payment for the family fee and \$250. The county issues a payment of \$250. The family files for aid paid pending. The county would issue payment of an additional \$25 pending the outcome of the hearing. This is the \$250 originally paid and the additional \$25 which takes the family up to the reimbursement maximum.~~

HANDBOOK ENDS HERE

~~.76~~ Aid pending shall cease when:

- ~~.761~~ (Continued)

~~.7611~~ If a ~~nonappearance occurs~~ hearing request is dismissed because the claimant failed to attend the scheduled hearing, but the ~~hearing request is subsequently reinstated and the hearing is rescheduled~~ decision dismissing the claim is set aside and a new hearing is granted as specified in Section 22-054.222, the county shall reinstate any applicable aid pending.

~~.72~~ The claim has been denied or dismissed by the preliminary hearing process specified in Section 22-074.

~~.7362~~ (Continued)

~~.734621~~ (Continued)

~~.732622~~ If the matter is rescheduled for further hearing as specified in Section 22-062.13, the aid pending determination made by the Administrative Law Judge at the original hearing shall be considered void. Aid shall be retroactively reinstated and continued until at least the date of the further hearing in the amount the claimant would have been paid if the proposed action were not to be taken, provided the claimant does not voluntarily and knowingly waive aid.

~~.7463~~ (Continued)

~~.741631~~ (Continued)

~~.7564~~ The claimant is granted a postponement of the hearing by the Administrative Law Judge at the hearing for a reason that does not constitute good cause as specified in Section 22-053.113.

~~.751641~~ This provision shall not apply to a first time postponement in the Food Stamp Program.

~~.7665~~ (Continued)

~~.87~~ (Continued)

~~.871~~ (Continued)

~~.98~~ (Continued)

~~.981~~ (Continued)

Authority Cited: Sections 10553, 10554, and 10604, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 10613, and 11209, ~~11501.1(a), 11501.5(a), and 11511(a)~~; Welfare and Institutions Code; 7 CFR 273.15(c)(4); 45 CFR 205.10; 45 CFR 255.2(h)(2); 45 CFR 256.2(c); and 45 CFR 256.4(d).

Amend Sections 22-073.123, .124(a), .24, .242, .242(a), .253, .26, and .3 to read:
Post-Hearing: Amend Section 22-073.25 and .253 to read:

22-073 COUNTY WELFARE AGENCY RESPONSIBILITY PRIOR TO THE STATE HEARING 22-073

.1 (Continued)

.12 (Continued)

.123 Upon receipt of an oral hearing request, the Department shall, within one working day of that receipt, notify the ~~respective~~ county that an oral hearing request has been filed and provide the county with sufficient information to provide aid paid pending when appropriate.

.124 Misdirected Requests.

(a) In the event that a written hearing request is filed erroneously with the State Hearings Division, rather than with the CWD, such requests shall be forwarded to the ~~respective~~ county. (Continued)

.2 Prior to the hearing, the county representative shall: (Continued)

.24 The county representative shall ~~determine~~ advise the State Hearings Division if an interpreter ~~will~~ may be necessary at the hearing or if a home hearing ~~will be necessary~~ might be appropriate. (Continued)

.242 The county representative shall report without delay to the State Hearings Division any known changes in the claimant's address or any other circumstances which might affect the necessity for or conduct of the hearing.

(a) This responsibility to report known changes in the claimant's circumstances continues after the hearing until a decision is rendered. (Continued)

.25 (Continued)

.253 If the county, when required, does not make the position statement available ~~not less than~~ at least two working days prior to the date of the scheduled hearing, or if the county modifies the position statement after providing the statement to the claimant, the hearing shall be postponed upon the request of the claimant conditioned upon the waiver of decision deadlines contained in Section 22-060. A modification is defined as a change which substantively revises the position statement. (Continued)

- .26 ~~While preparing for the hearing, t~~The county representative shall determine if the presence of the eligibility worker or other county witnesses would be helpful for the resolution of the issue and may have such persons available as witnesses at the hearing. (Continued)
- .3 (Continued)
- .35 Having the county case record available at the hearing. ~~The county representative shall have authority at the hearing to make binding agreements and stipulations on behalf of the CWD.~~ (Continued)
- .37 Having authority at the hearing to make binding agreements and stipulations on behalf of the CWD.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Repeal Section 22-074:

22-074 PRELIMINARY HEARING PROCEDURE

22-074

- ~~.1 The provisions for preliminary hearings set forth herein shall only be utilized by the CWD upon prior written approval of the State Hearings Division.~~
 - ~~.11 If such approval has been obtained, a preliminary hearing shall be provided by the county for all state hearing requests concerning actions by that county when the state hearing would be held within that county.~~
- ~~.2 The preliminary hearing process shall not interfere with the claimant's right to a state hearing.~~
- ~~.3 Denial or dismissal of a claim by preliminary hearing shall terminate aid pending the state hearing. See Section 22-072.62.~~
- ~~.4 A preliminary hearing shall neither be required nor available for claimants who have requested a state hearing on an eligibility determination not made by the CWD.~~
 - ~~.41 For example, a preliminary hearing is not available if the issue is a decision of the California Department of Health Services with respect to the scope of Medi-Cal benefits.~~
 - ~~.42 The preliminary hearing process shall not apply to issues involving the Food Stamp Program.~~
- ~~.5 With the approval of the State Hearings Division, the county shall provide preliminary hearings in accordance with the following procedures:~~
 - ~~.51 A preliminary hearing shall be provided by the CWD to the claimant upon notification by the State Hearings Division that a request for a state hearing has been filed by the claimant.~~
 - ~~.511 A state hearing shall be scheduled in the normal manner.~~
 - ~~.512 The CWD shall conclude the preliminary hearing process prior to the scheduled date of the state hearing.~~
 - ~~.52 The preliminary hearing shall be conducted by the county hearing officer.~~

- ~~.521 The county hearing officer shall not later serve as the county representative at a subsequent state hearing involving the case.~~
- ~~.53 A preliminary hearing may be continued or postponed for the reasons set forth in Section 22-053, provided such continued or postponed preliminary hearing is held prior to the claimant's scheduled state hearing.~~
- ~~.54 The preliminary hearing shall be held in an office or facility of the CWD. If necessary, the preliminary hearing shall be held elsewhere (see Section 22-045.1).~~
- ~~.55 The CWD shall mail or deliver to the claimant the county's written notice of the time and place of the hearing not less than seven days prior to the hearing.~~
- ~~.56 The preliminary hearing shall be conducted under the same general rules and procedures as those set forth in Sections 22-049 and 22-053.2 for the state hearing.~~
- ~~.561 The provisions of Section 22-050 regarding the introduction, admissibility, and weight of evidence shall apply to the preliminary hearing process.~~
- ~~.57 The claimant, the authorized representative, or the county may request that the State Hearings Division or a designee issue a subpoena duces tecum requiring attendance and/or the production of documents, at the preliminary hearing (see Sections 22-051.2 and 22-052).~~

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Repeal Section 22-075:

22-075 DISMISSAL OF A PRELIMINARY HEARING

22-075

- ~~.1 A preliminary hearing shall be dismissed when:~~
- ~~.11 Neither the claimant nor the authorized representative appears at the hearing unless good cause is established under the provisions of Section 22-053.16.~~
 - ~~.12 The claimant cannot be located through his/her last address of record after notice of the request for state hearing is received by the county.~~
 - ~~.13 The request for state hearing is withdrawn by the claimant prior to the issuance of the preliminary hearing decision (see Section 22-054.21).~~
- ~~.2 The CWD shall immediately notify the State Hearings Division upon dismissing a preliminary hearing on any of the grounds specified in Section 22-075.1, and the county shall immediately implement its proposed action.~~

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Repeal Section 22-076:

22-076 PROCEDURE AFTER THE PRELIMINARY HEARING

22-076

- ~~.1 After closing the hearing, the county hearing officer shall prepare a written memorandum decision setting forth:~~
 - ~~.11 A summary of facts;~~
 - ~~.12 The decision on each issue to be considered at the state hearing; and~~
 - ~~.13 Identification of the regulations supporting the written decision. The written memorandum decision may be informal and need not amount to a full opinion nor contain formal findings of fact and conclusions of law.~~
- ~~.2 The county shall promptly supply a copy of the written decision to the claimant and to the State Hearings Division.~~
- ~~.3 At the time of providing a copy of the decision to the claimant, the county shall determine whether the claimant desires to proceed with the state hearing.~~
 - ~~.31 Notice of such determination, including, if the claimant desires to withdraw his/her request, a statement to that effect signed by the claimant or the authorized representative, shall be forwarded to the State Hearings Division with a copy of the written memorandum decision.~~
 - ~~.311 If time limitations prevent the mailing of such notification and decision, the material shall be presented to the Administrative Law Judge at the state hearing for inclusion in the state hearing record.~~
- ~~.4 The county's decision on the issues considered at the hearing shall be implemented immediately.~~

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Section 22-077 to read:

22-077 HEARING NOT HELD IN COUNTY RESPONSIBLE FOR AID 22-077

- .1 If the hearing is to be held in a county other than the responsible county, ~~the welfare department of the responsible county shall choose~~ comply with one of the following procedures: (Continued)
 - .12 Submit a written position statement that meets the requirements of Section 22-073.251.
 - ~~.121 Such statement shall include all of the information in the county's possession regarding the point or points at issue, both supporting and opposing its action, together with any relevant dates and any arguments the county desires to make.~~
 - ~~.122 The county shall attach all pertinent documents to the position statement.~~
 - ~~.123~~1 (Continued)
 - ~~.124~~2 The position statement and pertinent documents shall be mailed at least five days prior to the hearing to the claimant, the authorized representative, and to the place of the hearing ~~with instructions that the statement and attachments be presented to the Administrative Law Judge at the time of the hearing.~~
 - ~~.125~~3 (Continued)
 - .13 Send the case record, or a certified copy thereof, containing all relevant information in the ~~CWD's county's~~ possession and the required position statement, to ~~the welfare department of the county in which the claimant is living,~~ with the request that the county represent the responsible county at the hearing. (Continued)
- .2 The responsible county shall be authorized to participate in the hearing by telephone. The responsible county shall still send the position statement to the hearing location as required by Section 22-077.12 or .13 above.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553 and 10554, Welfare and Institutions Code.

Amend Sections 22-078.13, .22, .23, .4, and .62 to read:

Post-Hearing: Amend Section 22-078.4 to read:

22-078 COMPLIANCE WITH STATE HEARING DECISIONS

22-078

.1 (Continued)

.13 If a rehearing decision is ~~subsequently rendered~~ issued, the county shall comply with ~~such~~ that rehearing decision to the extent it differs from the original decision.
(Continued)

.2 (Continued)

~~.22 The compliance report shall explain the claimant's right to contact the Department and the claimant's right to, and procedures for, requesting a state hearing.~~

~~.23~~ (Continued)

~~.23~~21 (Continued)

.4 Upon notification that the county has failed to comply with a decision, the Department ~~shall~~ is authorized to take appropriate action to ensure compliance with such decision, including seeking injunctive relief in Superior Court, as appropriate. (Continued)

.6 (Continued)

.62 If it is determined that the compliance is not appropriate, a notice ~~will~~ shall be sent to the county with a copy to the claimant, with instructions regarding what steps must be taken to ensure proper compliance with the decision.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553, ~~and~~ 10554, 10605, and 10961, Welfare and Institutions Code.

Amend Section 22-085 to read:

Post-Hearing: Renumber Section 22-085.5 to .41, delete Section 22-085.211, adopt Section 22-085.24 and amend Sections 22-085.4 and .41 to read:

22-085 AUTHORIZED REPRESENTATIVE

22-085

- .1 The claimant may authorize a person or organization to represent him/her during all aspects of the hearing process by signing and dating a written statement to that effect or by stating at the hearing that the person is so authorized. If the claimant is not present at the hearing, the written statement authorizing a representative to act on behalf of the claimant for hearing purposes shall be signed and dated by the claimant on or after the date of the action or inaction with which the claimant is dissatisfied. (Continued)
- .12 If the claimant is not present at the hearing and the written authorization does not meet the requirements set forth in Section 22-085.1, the Administrative Law Judge may proceed with the hearing if the circumstances indicate that the claimant wishes to proceed with the hearing process. In such cases, an amended authorization shall be submitted after the hearing as described in Sections 22-085.221 and .22+2. (Continued)
- .2 If the claimant has not authorized the representative in writing and is not present at the hearing, the person may be recognized as the authorized representative ~~if he/she is an attorney or if, at the hearing, the person swears or affirms under penalty of perjury that the claimant has so authorized him/her to act as the claimant's authorized representative, and the Administrative Law Judge further determines the person is so authorized.~~ as follows:
 - ~~.21 The Administrative Law Judge may make the determination by contacting a collateral source (e.g., the claimant).~~
 - ~~.22 In all such cases a written authorization shall be submitted within five days from the hearing unless this time period is extended by the Administrative Law Judge.~~
 - ~~.221 If no written authorization is submitted, the case shall be considered abandoned and shall be dismissed by written decision after the hearing. See Section 22-054.~~
 - .21 If the person is an attorney as defined in Section 22-001(a)(5), and he/she states on the hearing record that the claimant is mentally competent and has authorized him/her to act as authorized representative regarding the issue(s) to be addressed at the hearing, the attorney shall be recognized as an authorized representative without being required to submit an authorized representative form.

- .22 If the person is not an attorney, and he/she swears, affirms or states under penalty of perjury that the claimant is mentally competent and has authorized him/her to act as the claimant's authorized representative, and the Administrative Law Judge determines the person is so authorized, the non-attorney may represent the claimant at the hearing, subject to the following:
- .221 A written authorization shall be submitted by the non-attorney within ten days of the hearing unless this time period is extended by the Administrative Law Judge.
- .222 If no written authorization is submitted, the case shall be dismissed by written decision. (Continued)
- .24 If the attorney or non-attorney does not state on the hearing record that the claimant is mentally competent and has authorized him/her to act as authorized representative, the attorney or non-attorney shall not be recognized as authorized representative, the hearing shall not proceed and the hearing request shall be dismissed by written decision unless Section 22-085.23 applies. (Continued)
- .4 After a person or organization has been authorized to represent the claimant, the county, after notification of the authorization, shall send copies of any subsequent notices and correspondence that it has with the claimant regarding the state hearing, to the claimant and the authorized representative simultaneously.
- .41 The county's duty under Section 22-085.4 shall include the requirement to send the authorized representative any notices and/or correspondence related to a conditional withdrawal or compliance with a state hearing decision.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553, 10554, 10950, and 10955, Welfare and Institutions Code and 45 CFR 205.10.

Adopt Chapter 22-900 and Section 22-901 to read:
Post-Hearing: Amend Section 22-900.1 to read:

CHAPTER 22-900 IMPLEMENTATION SCHEDULE

22-901 IMPLEMENTATION OF STATE HEARING REVISIONS 22-901

- .1 The amendments in Section 22-009.11, Section 22-049.5, and Section 22-053.113(e) relating to language-compliant notices shall be implemented only as to notices of action issued after the amended regulations are filed with the Secretary of State.

Authority Cited: Sections 10553 and 10554, Welfare and Institutions Code.

Reference: Sections 10553, 10554, and 10950, Welfare and Institutions Code.